

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA ISP ASSOCIATION, INC.,
Complainant,

vs.

PACIFIC BELL TELEPHONE COMPANY
(U-1001-C); SBC ADVANCED SOLUTIONS, INC.
(U-6346-C) and DOES 1-20,
Defendants.

Case 01-07-027
(Filed July 26, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING GRANTING INTERVENTION
REQUEST OF RAW BANDWIDTH COMMUNICATIONS**

On January 6, 2003, Raw Bandwidth Communications (Raw Bandwidth) filed a petition to intervene in this proceeding. The petition requests intervention for the limited purpose of commenting on the Settlement Agreement attached to a Motion to Withdraw and Dismiss the case filed on August 12, 2002, by the California Internet Service Provider Association (CISPA), Pacific Bell Telephone Company (Pacific) and SBC Advanced Solutions Inc. (ASI) (jointly Pacific/ASI).

According to its petition, Raw Bandwidth uses the DSL transport services of Pacific/ASI to serve hundreds of customers in the San Francisco Bay Area and it is a member of CISPA. Raw Bandwidth states that it has worked with CISPA's attorneys in preparing evidence for this case on behalf of CISPA, has knowledge and experience with DSL and Pacific/ASI's business practices, and did not intervene earlier in the case because it was satisfied with the way CISPA was prosecuting the case. Even after the motion to dismiss the proceeding and accompanying settlement were filed on August 12, 2002, Raw Bandwidth did not intervene because it decided to wait and see whether Pacific/ASI honored the

settlement. Raw Bandwidth now asks to intervene because of recent actions by Pacific/ASI related to its DSL service offerings that Raw Bandwidth considers problematic given the proposed Settlement Agreement.

CISPA and Pacific/ASI (hereinafter the Settling Parties) do not oppose Raw Bandwidth's intervention as long as it is limited solely to commenting on the proposed Settlement Agreement. The Settling Parties individually claim in their responses to the petition that the three events raised by Raw Bandwidth are not within the scope of the proceeding, particularly a pricing issue that Raw Bandwidth raises involving Pacific's bundled DSL service offering. They request clarification that Raw Bandwidth may not raise issues that have been excluded from the scope of the proceeding.

While Raw Bandwidth's intervention request comes several months after the filing of the Settlement Agreement in this case, the Commission has not yet resolved this matter. On December 17, 2002, a ruling in this case denied the Settling Parties joint motion to dismiss the case, found that the Settlement Agreement would be reviewed under Rule 51.1 of the Commission's rules, and granted interventions to Brand X Internet LLC, TURN, and UCAN for the limited purpose of commenting on the Settlement Agreement. The same ruling required the Settling Parties to hold a settlement conference and report on the status of the settlement. The settlement conference is to be held no later than January 24, 2003. The Settling Parties will report on the status of the settlement no later than February 7, and parties may file their comments by February 18, 2003. Thus, there is still time for Raw Bandwidth to participate in this case and provide its views, as a customer of Pacific/ASI, on the Settlement Agreement.

Good cause having been shown, I will grant Raw Bandwidth's petition for intervention for the limited purpose of commenting on the Settlement

Agreement. I agree with CISPA and Pacific/ASI that Raw Bandwidth may not broaden the issues in this proceeding or unduly delay it by raising issues outside the scoping memo issued on May 10, 2002. It should be noted that in an earlier ruling in this case, the Assigned Commissioner and I stated that “the scope of the complaint should not include the reasonableness of DSL rates, operating speeds and the like set forth in the federal tariff....” (*See Assigned Commissioner’s and Administrative Law Judge’s Ruling Denying Defendants’ Motion to Dismiss*, March 28, 2002, p. 11.) Should Raw Bandwidth desire greater involvement in the proceeding, it will have to file a subsequent motion explaining the nature and scope of its intended participation.

Accordingly, **IT IS RULED** that the motion to intervene of Raw Bandwidth Communications is granted for the limited purpose of commenting on the Settlement Agreement filed on August 12, 2002, as part of a joint motion by the California Internet Service Provider Association, Pacific Bell Telephone Company, and SBC Advanced Solutions Inc. to withdraw the complaint.

Dated January 27, 2003, at San Francisco, California.

/s/ DOROTHY DUDA

Dorothy Duda
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Intervention Request of Raw Bandwidth Communications on all parties of record in this proceeding or their attorneys of record.

Dated January 27, 2003, at San Francisco, California.

/s/ CLAIRE JOHNSON

Claire Johnson

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

